

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

IN RE: CIRCUIT CITY STORES, INC.,	)	Case No. 08-35653-KRH
	)	Chapter 11 Proceeding
_____ LANG CONSTRUCTION, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Contested Matter No. _____
	)	
CIRCUIT CITY STORES, INC.,	)	
	)	
Defendant.	)	

**NOTICE OF AND MOTION FOR RELIEF FROM AUTOMATIC STAY**

Lang Construction, Inc. ("Lang") has filed papers with the Court to seek relief from the automatic stay (the "Motion").

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to grant the relief sought in this Motion, or if you want the Court to consider your views on the Motion, then on or before March 23, 2009, you must file a written response explaining your position with the Court at the following address:

William C. Redden, Clerk  
U.S. Bankruptcy Court  
Eastern District of Virginia  
Richmond Division  
701 E. Broad Street, Suite 4000  
Richmond, VA 23219

If you mail your request or response to the Court for filing, you should mail it early enough so the Court will receive it on or before the date stated above.

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William A. Gray, Esquire – VSB #46911  
C. Thomas Ebel, Esquire – VSB #18637  
Lisa Taylor Hudson, Esquire – VSB #45484  
Sands, Anderson, Marks & Miller, P.C.  
801 East Main Street, Suite 1800  
(Post Office Box 1998)  
Richmond, Virginia 23219 (23218-1998)  
(804) 648-1636 (Telephone)  
(804) 783-7291 (Facsimile)  
*Counsel for Lang Construction, Inc.*

You must also mail a copy to:

William A. Gray, Esquire  
Sands Anderson Marks & Miller, P.C.  
801 East Main Street  
Post Office Box 1998  
Richmond, VA 23218-1998

You must attend Preliminary Hearing scheduled to be held on **March 30, 2009, at 10:00 a.m.**, in Courtroom 5000, United States Bankruptcy Court, U.S. Courthouse, 701 E. Broad Street, Richmond, Virginia.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting that relief.

**MOTION FOR RELIEF FROM AUTOMATIC STAY**

Lang submits the following Motion for Relief from Automatic Stay, requesting the Court permit Lang to pursue certain Litigation (as hereinafter defined) in state court. In support of this Motion, Lang states the following:

1. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1334. This matter is a “core” proceeding as set forth under 28 U.S.C. § 157.

2. On November 10, 2008 (the “Petition Date”), the Debtors filed under Chapter 11 of Title 11 of the United States Code.

3. On or about March 4, 2009, Cleveland Construction, Inc. filed its Motion for Relief from the Automatic Stay (“Cleveland Construction’s Motion”) seeking permission to enforce its Mechanic’s Lien relating to property located at the Merriam Village Shopping Center in Merriam, Kansas [Docket No. 2417]. Lang supports and joins in Cleveland Construction’s Motion.

4. On or about December 17, 2008, Lang, a Kansas corporation whose principal place of business is in Kansas, filed a Mechanic’s Lien in the amount of \$38,930.76, in the Clerk’s Office for the District Court of Johnson County, Kansas (the “Mechanic’s Lien”).

5. The Mechanic's Lien was filed as a result of nonpayment of moneys owed by Cleveland Construction to Lang as subcontractor in the construction of Circuit City Store #4220, Merriam Village Shopping Center, 6030 Eby Street, Merriam, Kansas (the "Property").

6. Lang's Mechanic's Lien attaches to both, the real property, as well as Circuit City's leasehold interest. Lang understands that Motion for Approval of Bidding and Auction Procedures [Docket No. 1946] (the "Motion for Approval") has been filed regarding the leasehold interest and the Motion for Approval was granted [Docket No. 2242]. This Motion seeks no relief regarding the leasehold interest.

7. In order to enforce its Mechanic's Lien against the real property, Lang desires to join in the lawsuit to be filed by Cleveland Construction in the state of Kansas (the "Litigation").

8. Pursuant to Kansas state law, Circuit City is a necessary party to the above Litigation, as further explained in Cleveland Construction's Motion.

9. Through such Litigation, Lang would simply seek the sale of the real property, which is not an asset of the Debtors' bankruptcy estate.

10. Upon the filing of this Bankruptcy, Lang was stayed from pursuing such Litigation.

11. The interests of Lang in the above-referenced Litigation are not adequately protected thereby constituting cause for granting relief from the automatic stay of 11 U.S.C. § 362(a).

12. Circuit City's leasehold interest is currently the subject of a Motion for Approval of Bidding and Auction procedures. Nothing contained herein shall be deemed a waiver in Lang's lien against the proceeds from any such sale and Lang hereby expressly reserves its rights to any proceeds from the sale of Circuit City's leasehold interest at the Property.

13. Lang requests that the ten-day period or stay under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure, during which the stay remains in effect be waived and any Order granting relief become effective immediately upon entry.

WHEREFORE, by reason of the forgoing and arguments at any haring, Lang Contracting Company, Inc. respectfully requests that this Court enter an Order:

- a. Granting it immediate relief from the automatic stay of 11 U.S.C. § 362(a), to allow Lang to pursue Litigation to enforce its Mechanic's Lien, including the sale of the Property, solely as set forth herein;
- b. Maintaining the automatic stay of 11 U.S.C. § 362(a) in full force and effect except as otherwise requested herein;
- c. Waiving the ten-day period or stay under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure, during which the stay remains in effect; or
- d. Otherwise granting it adequate protection, and that it has such other and further relief as the Court may deem appropriate.

Respectfully submitted,

LANG CONSTRUCTION, INC.

By: /s/ William A. Gray  
William A. Gray, Esquire – VSB #46911  
C. Thomas Ebel, Esquire – VSB #18637  
Lisa Taylor Hudson, Esquire – VSB #45484  
Sands, Anderson, Marks & Miller, P.C.  
801 East Main Street, Suite 1800  
(Post Office Box 1998)  
Richmond, Virginia 23219 (23218-1998)  
(804) 648-1636 (Telephone)  
(804) 783-7291 (Facsimile)

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Notice of and Motion for Relief from Automatic Stay was served by electronic means through the ECF system to all registered parties and was mailed by first class U.S. mail, postage prepaid, this 10th day of March, 2009, to the below service list:

Daniel F. Blanks, Esquire  
Douglas M. Foley, Esquire  
McGuire Woods LLP  
9000 World Trade Center  
101 W. Main Street  
Norfolk, VA 23510  
*Counsel for Debtors*

Dion W. Hayes, Esquire  
James S. Sheerin, Esquire  
Sarah Beckett Boehm, Esquire  
McGuire Woods LLP  
One James Center  
901 E. Cary Street  
Richmond, VA 23219  
*Counsel for Debtors*

Gregg M. Galardi, Esquire  
Skadden Arps Slate Meagher & Flom, LLC  
One Rodney Square  
Post Office Box 636  
Wilmington, Delaware 19899-0636  
*Counsel for Debtors*

Chris L. Dickerson, Esquire  
Skadden Arps Slate Meagher & Flom, LLC  
333 West Wacker Drive  
Chicago, IL 60606  
*Counsel for Debtors*

Robert Van Arsdale, Esquire  
Assistant U.S. Trustee  
Office of the U.S. Trustee  
701 East Broad Street, Suite 4304  
Richmond, VA 23219  
*Office of the U.S. Trustee*

Linda K. Myers, Esquire  
Kirkland & Ellis, LLP  
200 East Randolph Drive  
Chicago, Illinois 60601  
*Special Counsel for Debtors*

Lynn L. Tavenner, Esquire  
Tavenner & Beran, PLC  
20 North Eighth Street, Second Floor  
Richmond, Virginia 23219  
*Counsel for the Official Committee of  
Unsecured Creditors*

Jeffrey N. Pomerantz, Esquire  
Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Boulevard, 11<sup>th</sup> Floor  
Los Angeles, CA 90067  
*Counsel for the Creditors Committee*

Robert J. Feinstein, Esquire  
Pachulski Stang Ziehl & Jones LLP  
780 Third Avenue, 26th Floor  
New York, New York 10017  
*Counsel for the Creditors Committee*

/s/ William A. Gray